

REMARKS

The Office Action of April 23, 2003 has been reviewed and the comments therein were carefully considered. Reconsideration and allowance of the instant application is respectfully requested. Claims 1-14 are pending. The rejection of claims 1-6, 12, and 13 under 35 USC §102(e) is moot. Claims 1-6, 12 and 13 are rejected by the Office Action under 35 USC §103(a). Claims 7-11 and 14 are allowed.

Rejections under 35 USC §103

Claim 1-6, 12, and 13 are rejected by the Office Action under 35 USC §103 (a) as being unpatentable over Suzuki (US 6,313,745) in view of Gustafson (US 5,756,986). Applicant respectfully disagrees. For example, claim 1 includes the feature of "reading a tag **embedded** in the product to obtain product identifying information, wherein the tag is attached to remain with the product throughout a life of the product". (Emphasis added.) When interpreting a claim, "the words of a claim must be given their plain meaning unless they are defined in the specification." (MPEP, §2111.01.) The definition of *embed* is well known to be "to enclose closely in". (Webster's Third New International Dictionary, G.&C. Merriam Company, 1961.) Moreover, the specification as originally filed further clarifies that " Tag 202 is preferably **embedded in the product itself as opposed as being attached to a package** containing the product so that tag 202 will remain with product 200 throughout the life of product 200." (Page 7, lines 16-18. Emphasis added.) Therefore, the limitation of "embedded" means "to enclose in" and not attached to.

Neither Suzuki nor Gustafson teaches or even suggests the above feature of "reading a tag embedded in the product to obtain product identifying information, wherein the tag is

attached to remain with the product throughout a life of the product" as claimed. Suzuki does teach:

Considering the foregoing, FIG. 1 depicts a schematic block diagram of an exemplary embodiment of a system for merchandise item recognition. In the exemplary embodiment of FIG. 1, merchandise recognition is supported through an electronic wireless tag 10 that is attached to an item sold within the retail facility. As illustrated in more detail in FIG. 2, the wireless tag 10 includes a semiconductor chip having RF circuitry 10a, logic circuitry 10b, antenna 10c, and memory 10d. The memory 10d encompasses an electronically erasable field-programmable read-only memory (EEPROM), a flash ROM (FROM), or other known memory device suitable for use in the electronic wireless tag 10. The memory 10d stores a unique product identification code (product ID) identifying the item that is attached to the tag 10. The product ID preferably takes the form of a UPC code. (Column 4, lines 22-37.)

Referring to Figure 1 of Suzuki, it is apparent that tag 10 is not embedded in a product but is rather attached to the product. As cited in the Office Action, Gustafson does teach

Generally, the necessary indications appear on a label fixed permanently or detachably to the garment and bearing these indications in plain form or encoded, **for example an alphanumeric code or a bar code**. In order to avoid manipulations and disputes, it is advantageous for the label to be fixed permanently to the garment, but in this case the marking appearing on the label may disappear after one or more laundering operations, depending upon the conditions and the products used for laundering. The presence of the label, according to the material used for the latter, may also hinder the cleaning operations, particularly the final ironing of the garment. Moreover, in case of changing one of the elements of the code, it is necessary to change the label, which may be long and costly in the event that engraving is to be carried out. But the major drawback resides in the fact that for each allocation of the garment in question, it is necessary to find its label and to read it, which increases the number of manipulations. (Column 1, lines 44-61. Emphasis added.)

Applicant submits that Gustafson does not teach or even suggest the feature of "reading a tag embedded in the product to obtain product identifying information". In fact, applying the above teaching of Gustafson with an embedded tag may degrade or even destroy the intended function of a label having an alphanumeric code or a bar code. Thus, for at least the above reasons, Applicant submits that claim 1 is patentable over Suzuki in view of Gustafson. Regarding claim

12. for the above reasons as discussed above, Applicant submits that the combination of Suzuki and Gustafson does not teach the feature of "a receiver that detects radiation reflected by a tag embedded in a product, wherein the product is being utilized for an intended purpose of the product, and wherein the tag is attached to remain with the product throughout a life of the product." Claims 2-6 and 13 depend from claims 1 and 12. Thus, Applicant submits that claims 1-6 and 12-13 are patentable over Suzuki in view of Gustafson and requests for reconsideration.

Allowable Subject Matter

Claims 7-11 and 14 are allowed.

Favorable reconsideration of this application is respectfully requested. The Examiner is invited to contact the undersigned should it be deemed necessary to facilitate prosecution of the application.

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